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Board / Committee Handbook

Town of Acton, MA



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INTRODUCTION

Purpose

Congratulations on your appointment to a town board or committee! You are about to undertake a very important role within the Town of Acton. Committees and boards serve as planning and implementation bodies for the Town and, in some cases, as enforcement agencies for state statutes and local bylaws. The volunteer members who serve on these boards and committees are an essential part of running an effective and efficient local government.

This handbook has been prepared by the Board of Selectmen as a general informational aid to all Town committees and boards. It provides a brief description of procedures and an introduction to important state statutes that govern the conduct of boards and committees and their members, such as the Open Meeting Law and the Conflict of Interest Law (also known as the State Ethics Act).

Participation in Town Government

The Board of Selectmen actively encourages Acton residents to participate in local government by volunteering to serve on a board or committee. Through service to the community, board and committee members have a unique opportunity to learn about the workings of our Town and to support fellow members of our community. The Board of Selectmen recognizes that serving on a board or committee takes dedication and commitment and we value your volunteer service.

Types of Boards and Committees

Appendix A is a list of Town committees and boards, identifying the type, the appointing authority, and the number of regular, associate and alternate members. All boards and committees appointed by the Board of Selectmen must follow the general policies set by the Board of Selectmen and implemented by the Town Manager. Other boards and committees are encouraged to function in a manner which is consistent with these general policies.

Statutory Boards and Committees

State statutes outline the powers and duties of statutory boards and committees, such as the Board of Assessors, Board of Health, Commission on Disabilities, Conservation Commission, Council on Aging, Historic District Commission, Historical Commission, the Planning Board and the Zoning Board of Appeals.

The Town Charter or the applicable state statute determines the appointing authority for each statutory board or committee. The Town by-laws and appointing authorities may further define the work of these committees.

Advisory Committees

The Board of Selectmen may from time to time create advisory committees to aid the Board of

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Selectmen in the performance of its duties to the public.

The Board of Selectmen is the appointing authority for advisory committees. The Board of Selectmen prepares the charge, sets the number of members and their terms, approves the membership, and receives the reports and recommendations of the advisory committee. Advisory committees may be temporary for short term assignments or may have ongoing responsibilities. When a committee is appointed on a temporary basis, the members will serve until the Board of Selectmen determines the committee assignment has been completed.

All advisory committees serve at the discretion of the Board of Selectmen.

Important Reading

All board and committee members, associate members and alternate members should read the most recent Annual Town Report, Town By-laws, Town Charter, and Town website for information regarding their boards and committees. The Town website contains links to these materials: www.acton-ma.gov . In addition, all board and committee members should review state laws that pertain to their board, commission, or committee. Summaries of the Open Meeting Law and Conflict of Interest and Ethics laws are included in this document.

MEMBERSHIP

Members, Associate Members, and Alternate Members

The charge for all boards and committees specifies the number of full members and the number of alternate and/or associate members. Serving as an alternate or associate member is an excellent way to become familiar with the work of a particular board or committee before taking on the responsibility of a full member.

The exact role of alternate and associate members varies by board and committee but the general principles are:

- The Town Charter sets the minimum requirements under which an associate or alternate member should be designated by the chairperson of the board or committee to sit for a particular matter or matters: (a) in the case of an absence, inability to act, or conflict of interest on the part of any regular board or committee member, or (b) in the event of a vacancy on the board or committee, until said vacancy is filled.
- Unless the board or committee's enabling statute provides to the contrary, the chairperson of the board or committee may also designate an associate or alternate member to sit for other particular matters to ensure the fair, effective and efficient conduct of the board or committee's business. For example, if a public hearing is likely to span many meetings of the board or

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committee, the chairperson of the board or committee may ask the full board plus one or more associates or alternates to hear the matter. That way, if one or more regular board or committee member(s) is absent for more than one hearing session, the board or committee will be less likely to encounter disabling quorum or super-majority problems.

- For such public hearings, once an associate or alternate member has been designated to sit on a particular matter or matters, the associate or alternate member should continue to sit until the conclusion of the particular matter or matters even though the hearings span multiple meetings of the board or committee. Before the vote on the matter is taken, the chairperson will designate the members and/or associate or alternate members entitled to vote.
- In any event, associate or alternate members may attend all open meetings of the board or committee, and may attend executive sessions conducted for the particular matter or matters on which the associate or alternate member is designated to sit.
- Associate or alternate members may participate in discussions at an open meeting but may not vote on board or committee business except for the particular matter or matters on which the associate or alternate member is designated to sit and vote.
- Associate or alternate members may be counted toward the quorum of the board or committee if the chair has designated them to hear the issue before the board at that meeting.

Application Procedure

The Volunteer Coordinating Committee (VCC) works with the Board of Selectmen, the Town Manager and the Town Moderator to find volunteers for the town boards and committees whose members are appointed by the Board of Selectmen. Here's our process for selecting volunteers for board and committee positions:

- Interested residents file an application with the VCC. Applications may be picked up from the Town Clerk's office or downloaded from the Town's website: www.acton-ma.gov
- The VCC interviews the applicant and looks for the best match for each applicant's interests and skills with available board and committee openings. The VCC communicates its recommendations regarding the candidate to the Selectman Liaison.
- The Selectman Liaison for the committee under consideration will interview the candidate.
- If the Selectman Liaison wishes to recommend the candidate for the open position, he or she asks the Chair of the Board of Selectmen to put the appointment on the agenda for the next Board of Selectmen meeting.

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- The Board of Selectmen will consider and vote on the appointment.

Under some circumstances, the Board of Selectmen may choose to bypass the VCC process in order to expedite appointments. Although occasionally necessary, the Board avoids doing so whenever possible.

Non-citizen Participation Policy

The Town is in large part administered by a variety of boards and committees staffed by volunteer residents who donate their time and energy to improve the community. Documented Acton Resident Aliens may serve on boards and committees unless disallowed by state law. This policy enables these residents to increase their involvement in the community and provide the community with an increased pool of potential board and committee members. The term "Documented Acton Resident Alien" means any properly documented individual who is lawfully residing in Acton pursuant to Federal Immigration and Naturalization laws and regulations.

Appointment, Reappointment, Resignation, Removal

All appointments made by the Board of Selectmen are made by majority vote in an open meeting.

Most terms begin on July 1st and end on June 30th. With certain exceptions, the most common term for members of standing boards and committees is three years for regular members, one year for associate or alternate members. Most advisory boards follow these same terms. Some advisory committees however, are formed to accomplish a specific task and then dissolved when the task is completed. Terms are generally not specified for these short term advisory committees.

It is the policy of the Board of Selectmen, wherever possible, to limit one-year term appointments to 5 consecutive terms, and 3-year term appointments to two consecutive terms. If no other candidate or associate member is available for a position, a regular member who would otherwise be at the term limit may request reappointment and the VCC may submit the request to the Board of Selectmen at the annual reappointment time. A committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer such reappointment.

A board or committee member who is no longer able to serve, or who moves out of Town, should resign promptly so that the vacancy may be filled as soon as possible. Any resignation should be submitted in writing to the Committee Chairman, the Town Clerk and the Board of Selectmen.

The Board of Selectmen may remove for stated cause any of the officers or members of town boards or committees appointed by them. Causes for removal include such matters as repeated non-attendance at meetings, failure to discharge the duties of office, violation of state or town statutes or failure to follow town policies.

Appointments to fill vacancies will cover the remaining term of the vacated position.

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Orientation

Every appointed member of every board or committee must be sworn in by the Town Clerk and will receive this handbook and summaries of the Open Meeting and Conflict of Interest Laws at that time. Committee members should be re-sworn if and when their appointments are renewed. This can take place during normal office hours or by special arrangement through the Town Clerk at 978-264-9615.

The Board of Selectmen recognizes that no one is instantly an expert in the workings of municipal government. New members should contact their board or committee Chair for an orientation to the board or committee's role, responsibilities and recent issues. New members should also seek guidance from other committee members or Town staff when questions arise. You may also contact the Board of Selectmen's office with questions at 978-264-9611.

Municipal Employee Definition and Liability

Members of a Town board or committee (regular, alternate, and associate members) are considered municipal employees, regardless of whether they receive compensation.

Subject to certain exceptions and limitations, state law allows a municipality to indemnify its officials and employees from personal financial loss, due to acts occurring in the course of, within the scope of and during the good faith execution of the municipal employee's employment duties. The Town of Acton accepted a statutory provision and has purchased various liability insurance policies for this purpose. The statute provides that the town shall indemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission except an intentional violation of civil rights of any person under any law, if the official at the time of such act or omission was acting within the scope of his official duties or employment. This indemnification does not protect the employee against a prosecution for violation of the State Ethics Act. Nor may Town Counsel represent an employee facing such an enforcement action by the State Ethics Commission.

PROCEDURES

Meeting Definition

Meetings of Town boards and committees are subject to Massachusetts Open Meeting Law. The law is based on the premise that the public is entitled to see the process of government and not simply its end result.

The original Open Meeting Law applicable to cities and towns (General Laws c. 39, §§ 23A to 23C) has been repealed by Section 20 of Chapter 28 of the Acts of 2009, effective on July 1, 2010. Until then, the

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original Open Meeting Law remains in effect. On July 1, 2010, the new Open Meeting Law adopted by Section 18 of Chapter 28 of the Acts of 2009 takes effect. Generally speaking, the new Open Meeting Law, which will be codified as General Laws c. 30A, §§ 18-25 clarifies, strengthens, and renders stricter and more specific the Open Meeting Law and increases penalties for its violation. The Massachusetts Attorney General has the authority to interpret and enforce the new Open Meeting Law and is expected to issue guidance documents and conduct training as to its implementation. All Town board and committee members should familiarize themselves with the new Open Meeting Law as its effective date approaches. The Middlesex District Attorney has published guidelines regarding the Open Meeting Law and board and committee members should familiarize themselves with these guidelines:

<http://www.middlesexda.com/?cat=33>.

In the interim, boards and committees must follow the original Open Meeting Law. Under that law, a meeting occurs any time a quorum (usually a simple majority) of the members gets together and discusses or considers any public business or policy over which the board or committee has some jurisdiction or advisory power. A quorum shall not meet in private for purposes of deciding or deliberating toward a decision on public business unless it does so in a valid Executive Session. (See the Open Meeting Law section below for details about Executive Session). **Substantive discussions or deliberations on public business involving a quorum of members that occur via email, by telephone, or by sequential communications violate the Open Meeting Law.** A board or committee may only conduct administrative business, such as scheduling meetings and setting agendas, by phone and email.

A board or committee meeting must be posted at least 48 hours in advance, held in public even if there will be no vote or decision reached. Polling of board members for a decision prior to an open meeting of the board or committee is illegal and in violation of the Open Meeting Law. Except in very specific cases spelled out in the law, the public and the press have the right to attend all meetings of government bodies.

Board and Committee Officers

Committees and Boards shall annually elect a chair, vice-chair and a secretary or clerk. Newly formed boards or committees should elect these officers at their first meeting. Ongoing boards or committees should elect officers at the first meeting on or after July 1st (the beginning of the fiscal year) or at such time after Town Meeting as is customary. It is the responsibility of the Chair to notify the appointing authority and the Town Clerk of changes in membership and officers. The chair presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the chair's signature. The chair has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon.

The Vice-Chair acts for the Chair whenever the latter is absent from meetings, and performs other necessary duties. The Secretary is responsible for taking and transcribing the committee's minutes,

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scheduling the place, date, and time of meeting and posting the meetings with the Town Clerk no later than 48 hours before a meeting (excluding Sundays and holidays). The secretary should also check for committee/board mail at the mailboxes in Town Hall.

Conducting a Meeting

A board or committee may adopt formal rules of order. Although most small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted parliamentary procedures. Guidance by the chair and adherence to customary parliamentary procedures or adopted rules of order can increase efficiency as well as maintain objectivity. Briefly, these procedures include:

- In most instances, a decision is made by a simple majority vote of those board or committee members present and voting at the meeting.
- No votes taken in open session by a governmental body may be made by secret ballot.

The current Open Meeting Law does not require that members of the public attending a meeting be allowed to speak at that meeting. A board or committee may, however, allow public comment on the matters under discussion during a specific time at the meeting. (A board or committee must allow public input at a "public hearing" conducted under a statute with regard to a particular matter. See below.) Members of the public should be allowed to speak at a board or committee meeting only with the permission of the chair. Any person may record a meeting with a tape recorder or any other means of audio reproduction and/or videotape equipment provided he or she announces his intention to do so and there is no active interference with the conduct of the meeting.

Quorum

Except as otherwise specified by law, a majority of the regular members of the board or committee constitutes a quorum. A quorum must be present at each meeting, and a decision ordinarily requires the supporting vote of a majority of the members present and voting. Some statutes require a supermajority (two-thirds) or other quantum of vote for a decision to be adopted.

In the absence of a quorum (or for other reasons described earlier), the Chair may designate an alternate or associate member to sit for the duration of the meeting. If a quorum cannot be achieved, the meeting must disband and no board or committee business shall be discussed by the members present.

Public Hearing Process

Many boards and committees (such as the Board of Selectmen, the Planning Board and the Zoning Board of Appeals) are required by Massachusetts General Laws to conduct formal public hearings on some issues that comes before them. Others may choose to conduct a public hearing on a matter before

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them in order to receive input from the community.

All formal public hearings must be conducted in accordance with Massachusetts General Laws and Town By-Laws. Written hearing notices, the initiation of the hearing and the conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the board or committee.

It is recommended that all public hearings follow a formal procedure. Appendix B outlines a recommended process.

For all hearings, the Chair or other designated person should state guidelines and time allowances at the outset of the hearing. Detailed minutes must be kept. All questions should be directed to the Chair who, in turn, may ask for a response from board or committee members, staff or a member of the public.

It is the responsibility of the Chair to maintain order and decorum at the hearing. The Chair must be consistent and fair, but may put restrictions on the nature, number and frequency of individual's comments and questions.

Meeting Logistics

Depending on a board or committee's workload, meetings may be held weekly, bimonthly, monthly, or less frequently. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, boards and committees should not meet on weekends, major religious or official government holidays and on election day while the polls are open. In addition, boards and committees should not meet while Town Meeting is in session, except as necessary to participate in the proceedings of Town Meeting.

It is the responsibility of the board or committee to provide a timely notice to the Town Clerk of the committee's meetings with time, date, and location by emailing them to: clerk@acton-ma.gov. The posted notice may also include the agenda for the meeting. Except for emergency meetings, meetings must be posted at Town Hall at least 48 hours in advance by the Town Clerk (Sundays and holidays excluded). In the case of emergencies - that is sudden, unexpected occurrences which require immediate action by the body - notice may be less than 48 hours. But as soon as an emergency meeting is scheduled, notice must be posted. Although not required by law, it may also be appropriate to notify the press and other observers of an emergency meeting.

The Town Clerk maintains a current listing of all posted meetings on the bulletin board at Town Hall and, when possible, the Town website.

Meetings must be held in a place that is open to the public and accessible to persons with disabilities. Boards and committees should meet in a public building; meetings held in private homes or restaurants may give the appearance of being secret and discourage the public from attending. A board or committee may reserve a room in a municipal building by using the following contacts:

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- Town Hall, Municipal Properties - 978 264 9629
- Public Safety Facility, Municipal Properties - 978 264 9629
- Acton Memorial Library - 978 264 9641
- Acton Senior Center, Council on Aging – 978 264 9643
- Community Education (for use of school facilities) – 978 266 2525

Record Keeping

As a governmental body, each board and committee shall maintain accurate minutes of its meetings, setting forth at a minimum the date, time, place, members present or absent, the meeting agenda and all votes or actions taken at each meeting, including executive sessions.¹ The minutes of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions. No votes taken in open session shall be by secret ballot. Each board and committee shall vote to approve the minutes of their previous meeting at their next scheduled meeting and issue the approved minutes to the Town Clerk and all other interested boards and committees within 10 working days of the approval vote.²

Public Records Law

Massachusetts General Laws, Chapter 66, Section 10 the Public Records Law, gives a right of public access to “public records,” which are defined by Chapter 4, Section 7, Clause 26 to include any document, regardless of physical form or characteristics, made or received by a public official or employee to serve a public purpose, unless subject to a statutory exemption. Government records generated, received or maintained electronically, including electronic mail, constitute “public records” under this standard. Retention and destruction of these records should follow the schedule specified by Massachusetts General Laws, Chapter 66, Section 8. No public records should be deleted or destroyed without first consulting the Town Manager. The Massachusetts Secretary of State’s Public Records Division also provides guidance on public records matters at www.sec.state.ma.us/pre/preidx.htm. Printed records should be filed with related files of the board or committee. There is limited space available at town hall for files storage. Board and committee files may be maintained electronically

¹ The new Open Meeting Law requires even more detailed minutes: “A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.”

² Under the new Open Meeting Law, “The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.”

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provided that the Town has a current electronic record retention plan approved by the Supervisor of Public Records.

Use of Town Equipment and Facilities

Each board or committee is responsible for its own clerical work. However, with advance notice, the Town Manager's office can provide assistance in coordinating photocopying, mailings, and other services. Town equipment and facilities may be used for official board or committee business. Most boards and committees are assigned a mailbox in Town Hall near the Town Clerk's office that should be checked on a weekly basis. Board or committee mailing addresses should be the Acton Town Hall, 472 Main Street. Photocopying machines are located on the first and second floors and are available for official board or committee use during business hours, 8:00 A.M. -5:00 P.M. Monday – Friday. A fax machine is also available on the second floor outside the Town Manager's office.

Board and Committee Expenses

In general, an individual board or committee does not have a budget. If a board or committee anticipates a need to expend funds, it can request funds through the Town Manager's office. Such a request is subject to a review and evaluation of need, availability of funds, and approval by the Board of Selectmen.

Staff Support

Some boards and committees have a staff person who serves as an administrative assistant. In such cases, the staff person provides assistance, rather than the duties that are expected of members. For instance, the staff administrative assistant may record minutes of meetings, prepare and circulate information for meetings and perform other administrative duties. Please be aware that most staff persons have limited hours and boards and committees should not ask for more than can reasonably be accomplished in those hours.

Some boards and committees have a professional staff person assigned as a liaison to the Town Manager. The responsibility of the staff member is to provide technical support and information. The staff person keeps the Town Manager informed of the body's work and any items of significance which may come up.

In all cases, the Town Manager provides general management, direction and supervision to the staff members and their daily operations.

Use of Town Counsel

Town Counsel provides legal services to all Town departments, boards and committees upon request of the Town Manager and the Board of Selectmen. A board or committee Chair must make a formal

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request to the Town Manager for approval to use Town Counsel. The Town Manager will coordinate and submit the request to Town Counsel or the Board of Selectmen, as appropriate; except in an emergency, board and committee members may not contact Town Counsel directly. The request submitted to the Town Manager must include the subject matter of the legal advice requested and any written materials to provide background information for the request. With certain exceptions, questions presented to and advice received from Town Counsel are ordinarily protected by the Town's attorney-client privilege. That information should be labeled as such and segregated in the board or committee's files to avoid inadvertent disclosure and waiver of the privilege.

CONDUCT

Open Meeting Law

As discussed above, the Open Meeting Law has been rewritten, effective July 1, 2010. Both the original Open Meeting Law and the new Open Meeting Law are designed to insure that governmental activities are conducted in public except in very specific situations. This Handbook discusses the requirements of the original Open Meeting Law currently in effect. Further guidance will be issued on the new Open Meeting Law as its effective date approaches.

The Open Meeting Law applies to every meeting of a quorum of a governmental body if any public business over which the governmental body has jurisdiction is discussed or considered. The Open Meeting Law does not apply to chance meetings or social meetings; however, no chance or social meeting can be held to circumvent the open meeting requirements.

The following is a summary of the lawful manner in which meetings of boards, committees and sub-committees are to be conducted.

1. The Open Meeting Law gives the public and the press the right to attend (although not necessarily to participate in) all committee meetings except those portions held in Executive Session.
2. The law requires that notice of meetings be publicly posted at least 48 hours in advance (except in case of an emergency) and that minutes be taken.
3. All meetings must have a quorum of members and be open to the public.
4. No private meetings are permitted where a quorum of members discusses or deliberates about any matter over which the board or committee has jurisdiction.
5. An on-site inspection of a project or program is not considered to be a "meeting" so long as the members do not deliberate during the inspection. A board or committee should not, during such an inspection, make any decisions or take any votes about matters within its jurisdiction. If a committee or

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board intends to make a decision or take a vote while on such a visit, then the visit would be considered a board or committee meeting and all Open Meeting Law requirements must be observed, such as proper meeting posting and taking of minutes.

6. Under the original Open Meeting Law, an executive session may be called for only the following purposes:

- a. To discuss the reputation, character, physical condition, mental health rather than the professional competence of a single individual. The individual must be notified of such meeting, and may request that the meeting remain open;
- b. To consider the discipline or dismissal of an individual or to hear charges against an individual. The individual must be notified of such meeting, and may request that the meeting remain open;
- c. To discuss matters regarding collective bargaining or litigation;
- d. To discuss, deployment of security personnel or security devices;
- e. To investigate allegations of criminal conduct;
- f. To consider matters regarding real property;
- g. To comply with the provisions of any general or special law or federal grant-in-aid requirements;
- h. To consider and interview applicants for employment by a preliminary screening committee;
- i. To meet and confer with a mediators; and
- j. To discuss trade secrets and confidential information provided in conjunction with governmental body acting as an energy supplier.

7. Executive Sessions procedure: The following steps must be taken *before* going into Executive Session:

- a. Open Session must be convened first;
- b. The presiding officer (ordinarily the Chair) must give the purpose of an Executive Session. The purpose of the Executive Session must be one of the permitted purposes summarized above;
- c. The presiding officer must indicate whether the board or committee will reconvene after Executive Session;

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- d. A majority vote is needed to go into Executive Session;
- e The vote of each member must be recorded on a roll call vote and recorded in the minutes.

Email Usage

The use of electronic mail creates certain issues related to the Open Meeting and Public Records laws. There is no distinction in the law between written and electronic records. As a result, it is likely that email messages written or received in the capacity of a board, committee or commission member are public records which must be made available for public inspection in the same manner as hardcopy documents. Use of one's own home computer and personal email accounts may not exempt such communications depending on the context. In addition, the ease by which email messages are sent and forwarded may facilitate the improper discussion of public policy issues. Similar to "serial" telephone conversations, the discussion of public policy issues among a quorum of board or committee members via email is a violation of the Open Meeting Law. At the very least, all electronic mail sent and received at a Town-issued email address should be considered a public record subject to inspection and disclosure and scheduled retention and disposition. Employees and board and committee members acting in their official capacity should have no expectation of privacy in their use of electronic mail.

It is important for boards and committees to be responsive to emails that are sent to them through the official committee shell address. It is advised that the Chair or Clerk be assigned this responsibility. Boards or committees need to be careful not to allow replies to citizens to become discussions among the members in violation of the Open Meeting Law.

The Conflict of Interest Law for Public Officials and Public Employees

Effective September 30, 2009, new legislation (Chapter 28 of the Acts of 2009) has enhanced the enforcement of and increased the penalties for violation of the State Ethics Act by public officials. For example, the new legislation does the following:

- It strictly prohibits public officials from accepting gifts of "substantial value" for or because of their position.
- It increases the maximum punishment for bribery to \$100,000 and 10 years imprisonment.
- It increases the maximum penalties for conflict of interest law violations involving gifts and gratuities, revolving door violations and other abuses to \$10,000 and 5 years imprisonment.
- It increases penalties for civil violations of the conflict of interest laws to up to \$10,000 per

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violation (up to \$25,000 for bribery).

- It makes compliance with the Ethics Commission's summons mandatory.
- It increases the amount of time the Ethics Commission can proceed on an ethics violation from 3 years to 5 years.
- It gives the Attorney General concurrent jurisdiction with the Ethics Commission to enforce civil violations of the conflict of interest laws.

In view of the seriousness of these changes, the Board of Selectmen seeks to ensure that compliance is achieved by all and strongly urges all Town officials, including volunteer board and committee members, to familiarize themselves with the Conflict of Interest Law and to direct any questions they may have through the Town Manager (978-264-9612) to Town Counsel.

To assist with compliance, the State Ethics Commission has posted an on-line training program on their website. This training must be completed before April 2, 2010 by all municipal employees, and each employee (volunteer) must present the Town Clerk with a certificate of completion. The following overview of the Conflict of Interest Law is excerpted from the Ethics Commission's website <http://www.mass.gov/?pageID=ethhomepage&L=1&LO=Home&sid=leth> and may be updated based on the recent passage of the amendments to the State Ethics Act.

Chapter 268A of the Massachusetts General Laws governs your conduct as a public official. Below are some of the general rules that you must follow. You could face civil and criminal penalties if you take any prohibited action. There are some exemptions to these rules, so you may wish to seek legal advice from the State Ethics Commission or Town Counsel regarding how the law would apply in a particular situation. The term "public employee" includes both elected and appointed municipal employees, whether paid or unpaid, full-time or part-time. An unpaid volunteer board member is considered a public employee for purposes of the conflict of interest law.

In general:

- a. You may not ask for or accept anything (regardless of its value), if it is offered in exchange for your agreeing to perform or not perform an official act.
- b. You may not ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization, provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer", provided it remains in the office and does not ever go home with you. You

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may not accept honoraria for a speech that is in any way related to your official duties.

c. You may not hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse's immediate family.

d. You may not take any type of official action which will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection processes involving a family member's business.

e. You may not take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance: you may not take any official action regarding an "after hours" employer, or its geographic competitors; you may not participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would affect that organization, or its competitors.

f. Unless you qualify for an exemption, you may not have more than one job with the same municipality or county, or more than one job with the state.

g. Except under special circumstances, you may not have a financial interest in a contract with your public employer. For instance: if you are a town employee, a company you own may not be a vendor to that town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.

h. You may not represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.

i. You may not ever disclose confidential information, data or material which you gained or learned as a public employee.

j. Unless you make a proper, public disclosure -- including all the relevant facts -- you may not take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.

k. You may not use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance: you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.

l. You may not use public resources for political or private purposes. Examples of "public

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resources" include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.

m. You may not, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.

Abutting or nearby property may affect a public official's financial interest.

Under the conflict of interest law, a property owner is presumed to have a financial interest in matters affecting abutting and nearby properties. Thus, unless he or she can clearly demonstrate that he or she does not have a financial interest, a public employee should not take any action in his or her official capacity on matters affecting property that is near or directly abuts: his or her own property; property owned by a business partner; property owned by any immediate family members; property owned by a private employer, or prospective employer; or property owned by any organization in which the public employee is an officer, director, partner or trustee. Otherwise, he or she risks violating the conflict of interest law.

The following factors are considered to determine whether, in a particular situation, a person or organization has a financial interest in an abutting or nearby property. A financial interest is presumed whenever: the property directly abuts (i.e., it shares any part of a property line); the property is directly opposite a street, public way or private way; or the property is an abutter to an abutter within 300 feet of the property line; the owner of the property, because of an act or failure to act by the board or committee, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public; or the matter would otherwise alter his or her property value, rights, or use. For example, a property owner may have an affected financial interest in matters involving nearby zoning decisions, zoning changes, variances, subdivision plans, development proposals, and roadway, sewerage or safety improvements. If a board or committee member encounters such a situation, he or she should either recuse himself or herself from participation in the matter or contact the Town Manager (978-264-9612) to ask for Town Counsel's advice.

Recusal Process

If a member believes that he or she may face a conflict of interest or other reason that may justify recusal as to any particular matter, the member should immediately contact the Town Manager (978-264-9612) who will consult with Town Counsel for advice as to the proper course of action. Some potential conflicts are cured by a simple disclosure form filed in advance; others are cured by a simple disclosure form filed in advance with and approved by the Board of Selectmen as the appointing authority; others cannot be waived and require recusal. It is important for the member to understand and follow the proper course of action before proceeding.

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The various disclosure forms can be found on the State Ethics Commission's website by navigating through www.mass.gov. If the board or committee member is recused, he or she must leave the room while the matter causing the conflict is being discussed to avoid any appearance of exerting undue influence.

Campaign Finance Law

Massachusetts General Laws Chapter 55, the Campaign Finance Law regulates political activity by public employees and the use of public buildings and resources in campaigns and ballot issues. If a board or committee member receives a stipend of any amount, he or she is considered a public employee for the purpose of the Campaign Finance Law. This does not apply to elected officials. Public employees who take part in the political campaigns and the candidates and committees they support should be aware of this law. As with the Open Meeting Law and the State Ethics Act, the Campaign Finance Law was tightened up by Chapter 28 of the Acts of 2009 effective September 30, 2009.³ Public resources (government vehicles, office equipment and supplies and the paid time of public employees) may not be used for political campaign purposes, such as the election of a candidate or the passage or defeat of a ballot question. Soliciting or receiving campaign contributions in a government building is prohibited.

Speaking for a Board or Committee

An individual board member has a right to speak publicly as a private citizen but should not purport to represent the board or committee or exercise the authority of the board or committee except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens it may be perceived that they speak for the board or committee. Such a perception should be avoided. In addition, it is the policy of the Board of Selectmen that a recused board or committee member refrain from using this individual right of free speech to speak on matters on which a member has been recused in front of that member's board or committee.

Civil Discourse

The Board of Selectmen recognizes the importance of civil discourse at all levels of the government including those who volunteer their time and services on behalf of the Town. Boards and committees should conduct themselves so as to maintain public confidence in their local government and in the performance of the public trust. They should strive at every meeting to treat every person fairly and with respect. In turn, it is expected that those members from our community attending Town board or committee meetings will display respect to the public, board and committee members and Town staff.

³ For example, the amended Campaign Finance Law (a) eliminates arrangements between state political parties and elected officials, (b) bars individuals from making committee checks to themselves, (c) requires disclosure of expenditures and sources of funding for any anonymous third-party campaign mailings or ads that support or criticize a candidate or campaign, and (d) increases penalties for late-filed campaign finance reports.

Professional respect does not preclude differences of opinion but requires respect for those differences and the people who express them. Everyone should strive for civil discourse on all matters.

REPORTING PROCEDURES

Appointing Authority

Boards and committees appointed by the Board of Selectmen will be scheduled to meet annually in Oversight Meetings with the Board to provide an update on the board or committee's actions and plans. If needed, the Chair may request an additional meeting with the appointing authority to resolve any problems and report progress.

Liaison with Board of Selectmen

Each year, the Chair of the Board of Selectmen assigns each Selectman to be a liaison to several town boards and committees. The duty of the liaison is to maintain communication with the board or committee, review its minutes, interview volunteers who have applied for membership, be included in the board or committee email shell, and keep updated on issues of concern. The liaison is not expected to attend the meetings, but may do so; nor is the liaison an *ex officio* member. The Board of Selectmen recommends that the board or committee chair report regularly to its liaison about the board or committee's actions and plans so that the liaison can keep the Board of Selectmen updated.

Interaction with Town Manager

The Town Manager may appoint a staff member, usually a department head, to serve as a liaison to a board or committee if desired. Requests for the Town Manager (for legal assistance, for example) should ordinarily flow through the staff liaison or the Board of Selectman liaison. If a board or committee anticipates a need to expend funds, it can request funds through the Town Manager's office, subject to review and approval by the Board of Selectmen.

Town Meeting

Effective Town government requires strong and informed citizen participation. The work of every board or committee is interdependent with that of others. To foster informed decision making, it is highly desirable that boards and committees stay informed about work that is going on in related boards and committees. It is critical that every board or committee have as full representation as possible of its membership at regular governmental functions such as Town Meeting. Attending annual and special Town Meetings helps to assure an understanding of all issues relating to the work of the board or committee on which an individual serves, and of Town government in general.

Annual Town Report

All appointed boards and committees are required to file an annual report of activities for the Annual Town Report, due in December of each year. The Chair or another designated member should detail board or committee membership, including any changes, and report on major accomplishments and

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future plans for the year. A request for board or committee reports is issued each year by the Town Report Committee.

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Appendix A: List of Boards and Committees

Board or Committee	Type	Appointing Authority	Members	Associates or Alternates
A/B Cultural Council	Statutory	Board of Selectmen	7 Acton	N/A
Acton Community Housing Corporation	Home Rule Act	Board of Selectmen	5-7	N/A
Board of Appeals, Zoning	Statutory	Board of Selectmen	3	3
Board of Assessors	Statutory	Board of Selectmen	3	N/A
Board of Health	Statutory	Board of Selectmen	5	2
Cable Advisory Board	Advisory	Board of Selectmen	6	2
Cemetery Commission	Statutory	Board of Selectmen	3	N/A
Commission on Disabilities	Statutory	Board of Selectmen	9 ⁴	See Note 1
Community Preservation Committee	Statutory Bylaw c. S	Board of Selectmen	9 (6 ex officio; 3 appointed)	2
Conservation Commission	Statutory	Board of Selectmen	7	N/A
Land Stewardship Committee	Advisory	Board of Selectmen	5	5
Council on Aging	Statutory	Board of Selectmen	9	N/A
Design Review Board	Advisory	Board of Selectmen	5	3
Economic Development Committee	Advisory	Board of Selectmen	5 (7)	2 (2)
Acton Economic Development and Industrial Corporation	Home Rule Act	Board of Selectmen	7	N/A
Election Officers	Statutory	Board of Selectmen	As required	N/A
Finance Committee	Statutory	Town Moderator	9	N/A
Green Advisory Board	Advisory	Board of Selectmen	6	2
Hanscom Field Advisory Commission	Advisory	Board of Selectmen	1 Acton	1 Acton
Historical Commission	Statutory	Board of Selectmen	5	N/A
Historic District Commission	Statutory	Board of Selectmen	6	N/A
Metropolitan Area Planning Council	Statutory	Board of Selectmen	1 Acton	N/A
Planning Board	Statutory	Board of Selectmen	7	N/A2
Recreation Commission	Advisory	Board of Selectmen	5	N/A
Registrars of Voters	Statutory	Board of Selectmen	3	N/A

⁴ Under Article 7 of the 2009 Special Town Meeting, a Charter Amendment is pending to reduce the number of members of the Commission on Disabilities from nine (9) to five (5) and to create two (2) positions for associate members of the Commission on Disabilities.

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Board or Committee	Type	Appointing Authority	Members	Associates or Alternates
Sidewalk Committee	Advisory	Board of Selectmen	7	2
South Acton Train Station Advisory Committee	Temporary	Board of Selectmen	9	N/A
Transportation Advisory Committee	Advisory	Board of Selectmen	5	2
Volunteer Coordinating Committee	Advisory	Board of Selectmen	5	2
Water Resources Advisory Committee	Advisory	Board of Selectmen	5 (2 ex-officio; 3 appointed)	2
Zoning Board of Appeals	Statutory	Board of Selectmen	3	3
Wastewater Advisory Neighborhood Taskforce (WANT)	Temporary	Board of Selectmen	7 (3 ex-officio; 4 appointed)	N/A

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Appendix B: Recommended Public Hearing Procedure

Some boards and committees have statutory requirements for public hearings. This process may be used in addition to the legal requirements or may be used for committees that don't have statutory hearing definitions.

1. Chair states guidelines and procedures including time limits and decorum.
2. Where necessary, Chair states background information.
3. Petitioner makes presentation.
4. Information presented from Town Officials and other boards or committees.
5. Board or committee members question petitioner.
6. Public directs questions and comments through the Chair.
7. The hearing may be continued to another session with a specific date, time and place announced at the hearing.
8. Once all facts, testimony, and opinions have been heard, the Chair closes the public hearing.
9. The board or committee begins deliberation in an Open Meeting session. Motions may be made and votes may be taken at the board or committee's discretion. The board or committee ultimately votes a decision on the application. The decision usually has a set deadline. A decision usually entails a vote of approval, disapproval, or approval with conditions. Conditions and a rationale for the decision should be clearly spelled out and be based on information given at the hearing, state law, town reports and studies, and other town planning documents. Decisions may not be arbitrary and capricious or based on legally untenable grounds.

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Appendix C: Sample Annual Calendar

Spring	Selectmen establish priorities for the coming year
Summer – late Fall	Selectmen conduct annual oversight meetings for each board or committees.
August	Town Staff begins annual budget process
Mid - December	Town Manager submits proposed budget to Board of Selectmen and Finance Committee
December	Committee input due for Annual Report
End of December	Board of Selectmen closes Town Meeting Warrant
Early January	Budget Saturday
End of January	Budget voted by the Board of Selectmen
End of February	Budget voted by the FinCom
Mid-March	Warrant mailed to all Acton households
Last Tuesday in March	Town Elections
1 st Monday in April	Town Meeting

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Appendix D: Official State Holidays

Massachusetts legal holidays are defined on the Massachusetts state website:
<http://www.sec.state.ma.us/cis/cishol/holidx.htm>.

The current list of official state holidays is:

New Year's Day - January first

Martin Luther King Jr. Birthday - Third Monday in January

Washington's Birthday - Third Monday in February

Patriot's Day - Third Monday in April

Memorial Day - Last Monday in May

Independence Day - July 4th

Labor Day - First Monday in September

Columbus Day - Second Monday in October

Veterans' Day - November 11th

Thanksgiving Day - Customarily the fourth Thursday in November

Christmas Day - December 25th

Acton boards and committees also try to avoid holding meetings on major Jewish Holidays.